

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DANA-FARBER CANCER INSTITUTE, INC.,

Plaintiff,

- and-

PFIZER INC., WYETH LLC,
and GENETICS INSTITUTE, LLC,

Intervenors-Plaintiffs,

v.

ONO PHARMACEUTICAL CO., LTD.,
TASUKU HONJO, E.R. SQUIBB & SONS,
L.L.C., and BRISTOL-MYERS SQUIBB, CO.,

Defendants.

Civil Action No. 1:15-cv-13443-PBS

JOINT REQUEST FOR GUIDANCE ON POST-TRIAL BRIEFING

The parties hereby jointly request guidance from the Court as to whether it wishes to receive post-trial legal briefs in addition to findings of fact. During trial, the Court and the parties agreed that each side would submit post-trial proposed findings of fact of no more than 50 pages on March 13, 2019, and rebuttal findings of fact of no more than 10 pages on March 20, 2019. The Court also indicated that “maybe a shortish memo” on “what this all means legally” might also be submitted. Trial Transcript 7-133:-23 – 7-134:2.

Dana-Farber believes that post-trial briefing would assist the Court, particularly in light of the extensive legal argument and discussion of case law in Defendants’ Closing Argument, including their reliance on one or more cases that Defendants had not previously disclosed to Dana-Farber either in their Trial Brief, in their Proposed Findings and Fact and Conclusions of Law, or in court prior to their Closing Argument. Dana-Farber understood the Court at trial to

authorize a short legal memorandum, which it proposes would not exceed 15 pages by either side, to be submitted at the same time the parties submit proposed findings of fact, with no further rebuttals on the law.

Defendants do not believe additional briefing is necessary. The Court has already received voluminous pretrial briefs, findings of fact, and conclusions of law, and it will receive an additional 120 pages of materials in the coming weeks. Dana-Farber's proposed justification for additional briefing is erroneous, as Defendants have repeatedly explained the mandatory requirement of corroboration as part of Dana-Farber's heavy burden in this case. *See* Dkt. No. 303 (Trial Brief) at 9; Dkt. No. 327 (Proposed Findings of Fact and Conclusions of Law) at 31-32.

Dated: March 5, 2019

DANA-FARBER CANCER INSTITUTE,
INC.

By its attorneys,

/s/ Barbara A. Fiacco

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ONO PHARMACEUTICAL CO., LTD.,
TASUKU HONJO, E. R. SQUIBB & SONS,
L.L.C. AND BRISTOL-MYERS SQUIBB
CO.

By its attorneys,

/s/ Dianne B. Elderkin

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document, filed through the CM/ECF system, will be sent electronically to the registered participants of record as identified on the Notice of Electronic Filing on March 5, 2019.

/s/ *Barbara A. Fiacco*

Barbara A. Fiacco